

Revision: HCFA-AT-82-29 (BPP)
December 1982

State Nebraska

Citation
42 CFR 433.36(c)
AT-78-90
47 FR 43644

4.17 Liens and Recoveries

Liens are imposed against an individual's property.

☒ No.

☐ Yes.

- (a) Liens are imposed against an individual's property before his or her death because of Medicaid claims paid or to be paid on behalf of that individual following a court judgement which determined that benefits were incorrectly paid for that individual.

☐ Item (a) is not applicable. No such lien is imposed.

☐ Item (a) applies only to an individual's real property;

☐ Item (a) applies only to an individual's personal property; or

☐ Item (a) applies to both an individual's real and personal property.

- (b) Liens are placed against the real property of an individual before his or her death because of Medicaid claims paid or to be paid for that individual in accordance with 42 CFR 433.36(g)(1) and (g)(2).

☐ Item (b) is not applicable. No such lien is imposed.

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Supersedes
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Citation 4.17 (c) Adjustments or recoveries for Medicaid claims
42 CFR 433.36(c) correctly paid are as follows:
AT-78-90
47 FR 43644

- (1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual.
- (2) For any individual who received medical assistance at age 55 or older, recovery of payments made for nursing facility services, home and community-based services, and related hospital and prescription drug services.

XX Payments are recovered for other Medicaid services provided to individuals at age 55. This includes all services covered under the plan.

_____ Payments are recovered for other Medicaid services provided to individuals at age ____ (identify age, older than 55, and list services).

- (3) For any individual with long-term care insurance policies, if assets or resources are disregarded, recovery is made for nursing facility and other long-term care services from the estate of persons who have such policies. (Note: In States that already had such disregards under a State plan amendment approved as of May 14, 1993, assets remaining in the estates of deceased Medicaid recipients are shielded from recoverable to the extent of payments made by their long term care policies.)

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- (d) No money payments under another program are reduced as a means of recovering Medicaid claims incorrectly paid.
- (e) ATTACHMENT 4.17-A -
 - (1) Specifies the process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the process meets the requirements of 42 CFR 433.36(d).
 - (2) Specifies the criteria by which a son or a daughter can establish that he or she has been providing care, as specified under 42 CFR 433.36(f).
 - (3) Defines the following terms: estate (at a minimum, estate as defined under State probate law. Definition may be expanded to include any other real and personal property and other assets in which the individual had any legal title or interest at the time of death, to the extent of the interest, including assets conveyed to surviving individuals through arrangements such as trusts or joint tenancy); individual's home, equity interest in the home, residing in the home for at least 1, or 2 years, on a continuing basis, discharge from the medical institution and return home, and lawfully residing.
 - (4) Specifies the standards and procedures for waiving estate recoveries when they would cause undue hardship.

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